

R E M A R K S

Claims 1 - 31 are pending.

Claims 1 - 7, 16, and 25 - 31 are independent.

Double Patenting Objections

Applicants note that the objection to claims 25 and 26 as being substantial duplicates has been withdrawn.

On page 9 of the Office Action, the Examiner indicates that the claims differ in scope because "Claim 26 actually exchanges the items for the receipt of the purchase price, whereas Claim 25 only allows the transaction to continue and does not actually transfer the possession of the items nor the purchase price." (emphasis in original)

Claim 26 recites "receiving the rounded purchase price in exchange for the at least one item and the first item". Claim 25 recites "allowing an exchange of the at least one item and the first item for the rounded purchase price". Applicants agree to the extent that allowing an exchange is not identical to receiving the rounded purchase price. However, the Examiner's examples are unclear to Applicants, and accordingly Applicants do not believe that the Examiner's examples define the scope of the claims.

On page 2 of the Office Action, the Examiner indicates that the term "an exchange" in claim 26 would indicate that "one user receives the two items at substantially the same time as the other user receives the purchase price". Applicants note that the claims must be read in light of the specification, and there is nothing in either the claims or the specification that require simultaneous receipt of the rounded purchase price and the items.

Section 101 Rejections

Claims 1 - 24 stand rejected as being non-statutory. Applicants respectfully traverse the Examiner's Section 101 rejection.

Examiner agrees that "the rounded purchase price is tangible and may possibly be useful." However, the examiner asserts that there are three requirements for a claim to be statutory, two of which are apparently that the invention be "tied to something concrete" and that the claims "indicate an intended use". No rationale for these "requirements" is provided, nor is an explanation of their precise meaning.

A claimed invention can constitute a practical application, and thus satisfy the Section 101 inquiry, by producing a useful, concrete and tangible result. The present claims are directed to rounding of purchase prices, not manipulation of abstract numbers or variables. Accordingly, the present invention has a practical application in processing purchase prices, a clearly concrete application. Further, a result of each of claims 1 - 24 is, among other things, a rounded purchase price - a useful, concrete and tangible result which may be accepted and relied upon, e.g., by an entity selling something for the rounded price. No abstract ideas would be preempted by any of the present claims.

Applicants note that a hypothetical claim to a conventional cash register which determined a purchase price would recite statutory subject matter, though the claim would not be "tied to something concrete" or "indicate an intended use", as Applicants understand these notions.

Section 103(a) Rejections

Claims 1 - 30 are rejected as being unpatentable over Fiorini in light of U.S. Patent No. 5,869,826 to Eleftheriou. Applicant respectfully traverses the Examiner's Section 103(a) rejection.

Claims 1 - 27.

Each of claims 1 - 27 recites "*receiving a rounding code*". None of the references, nor the statements in the Examiner's affidavit dated February 22, 2001, nor the subject matter of the Examiner's Official Notice, alone or in combination, teach or suggest this limitation. Eleftheriou likewise does not disclose or suggest "*receiving a rounding code*". The cited portion of Eleftheriou (Col. 8, lines 24 - 38) discloses:

An alternative embodiment, however, may eliminate, for example, only pennies. This requires that the effective CB [change balance] 204 stored on a change card 202 be allowed to fluctuate within a range sufficient enough to cover the fractional nickel cost of any TC [total dollar cost of commercial transaction] 210, that is, zero to four cents ($\$0.00 \leq CB \leq \0.04). Therefore, depending on the CB 204 stored on a change card 202, the POS terminal 206 can be programmed to automatically adjust a TC 210 up or down to the nearest whole (fractionless) dollar, or if desired, whole quarter, dime, or nickel, amount. This obviates the need to physically carry coins of any desired denomination in order to conduct cash-payment transactions.

Clearly, in Eleftheriou nothing is received, much less a rounding code. In Eleftheriou a particular POS terminal 206 is "programmed" to always adjust up or down to a particular value, such as a dollar, dime, etc. There is no suggestion that a rounding code is received, and the purchase price is somehow rounded based (directly or indirectly) on the received rounding code (e.g., to the nearest \$5 for one purchase, and to the nearest \$10 for the next purchase, as is possible with embodiments of the present invention).

In addition to the above arguments regarding the nonobviousness of claims 1 - 27, Applicants reaffirm the arguments made in the Applicants' previous Response to the Office Action mailed February 13, 2001.

Claim 28.

Claim 28 recites:

receiving a signal indicative of a scanned bar code on a first item not included in the at least one item

None of the references, including Eleftheriou, discloses or suggests this limitation. There is no suggestion in any of the references that an item is not included in one or more other items, and that the non-included item has any effect, as is also claimed.

Claim 28 also recites:

selecting an integer from a plurality of integers based on the scanned bar code

Eleftheriou does not disclose or suggest this limitation. The cited portion of Eleftheriou (Col. 5, lines 61 - 64) discloses only that:

"the POS terminal 206 may also employ a fixed or hand-held scanner such as a bar code scanner of the type in use with many electronic cash registers for entering cost and other requisite information."

In Eleftheriou the bar code scanner is used for entering, e.g., the cost of products, but not rounding codes.

Claim 29.

Claim 29 recites:

receiving a first item from a customer, in which the first item is not included in the at least one item

None of the references, including Eleftheriou, discloses or suggests this limitation. There is no suggestion in any of the references that an item is not include in one or more other items, and that the non-included item has any effect, such as

determining a rounding multiple based on the first item

Claim 30.

Claim 30 recites:

receiving a first item from a customer, in which the first item is not included in the at least one item

None of the references, including Eleftheriou, discloses or suggests this limitation. There is no suggestion in any of the references that an item is not include in one or more other items, and that the non-included item has any effect, such as

scanning a bar code on the first item

or

selecting an integer from a plurality of integers based on the scanned bar code, in which at least one of the plurality of integers is "1";

Newly Added Claims

Newly added Claim 31 distinguishes over the references cited by the Examiner, alone or in combination. For example, none of the references disclose or suggest any, much less each, of the following:

selecting an integer from a plurality of integers based on one of the scanned bar codes;

determining a price of a subset of the plurality of items, the subset not including the item corresponding to the one of the scanned bar codes;

determining a rounded price based on the price and the selected integer, in which the rounded price is a lowest multiple of the selected integer that is greater than the price;

Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.

Petition for Extension of Time to Respond

Applicants hereby petition for a **three-month** extension of time with which to respond to the Office Action. Please charge \$920.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

Respectfully submitted,



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